

1. This Court has original jurisdiction on the basis of diversity jurisdiction 28 U.S.C. § 1332, and removal is proper pursuant to 28 U.S.C. §§ 1441 and 1446.

2. Venue is proper because this Court constitutes the “district court of the United States for the district and division embracing the place where [the State Action] is pending.” 28 U.S.C. § 1441(a).

I. Procedural History and Timeliness of Removal

3. The State Action was filed on or about December 24, 2020. In accordance with 28 U.S.C. § 1446(a), a true and complete copy of complaint filed by Star Magic is attached hereto as Exhibit “1” and made a part hereof.

4. Defendant, Joclynn Alioto, received a copy of the Complaint in the State Action no earlier than January 6, 2021.

5. None of the Defendants to the State Action has served or filed an answer to the State Action.

7. No motions or other proceedings in the State Action are pending.

8. No previous application has been made for the relief herein requested.

9. In accordance with 28 U.S.C. § 1446(d), promptly after filing Notice of Removal, Defendants will give written notice to all adverse parties and will file a copy of this Notice of Removal with the Supreme Court of the State of New York, County of New York.

II. Removal is Proper Under 28 U.S.C. § 1332

10. According to 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants.”

11. Removal is justified. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, because there is complete diversity among the parties. Complete diversity existed

when the Complaint was filed in the State Action and exists at the time of the filing of this removal petition.

12. Star Magic is alleged to be a corporation residing in New York. Star Magic, Inc. is not a California corporation and has not registered to do business in California.

13. Defendant, Tangle, is a California corporation with a principal place of business in California at the time the action was filed and currently.

14. Richard X. Zawitz; Nicholas Zawitz; and Joclynn Alioto are individuals and residents of California at the time the action was filed and currently.

15. Defendant Joclynn Alioto received a copy of the complaint in the State Action no earlier than on January 6, 2021.

16. 28 U.S.C. § 1332(a) provides that this Court has original jurisdiction over any matter where “the matter in controversy exceeds the sum or value of \$75,000” and the matter is between “citizens of different States and in which citizens or subjects of a foreign state are additional parties.”

17. Plaintiff, Star Magic, has alleged in his Complaint in the State Action a controversy exceeding the sum of \$1,000,000.00. Defendants, on information and belief, believe the amount in dispute exceeds \$75,000.

18. Defendants may remove the State Action because none of the “parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2).

19. This Notice of Removal is timely filed because it has been filed within thirty (30) days of the date of when the defendant, Joclynn Alioto received notice thereof pursuant to 28 U.S.C. § 1446(b).

21. By removing this action, Defendants do not waive any rights, claims or defenses, and expressly reserves its right to assert any and all defenses related to ineffective and insufficient service of process and jurisdiction.

WHEREFORE, Defendants respectfully submit that the State Action is properly removed to this Court from the Supreme Court of the State of New York, County of New York.

Dated: February 2, 2021
New York, New York

By: /s/ Michael T. Stewart

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